

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

LARRY E. EALY, :  
Plaintiff, : Case No. 3:08CV0205  
vs. : District Judge Walter Herbert Rice  
JUDGE THOMAS HANNA, : Magistrate Judge Sharon L. Ovington  
Defendant. :  
:

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**DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS FILED  
ON JULY 16, 2008 (Doc. #3); DISMISSING PLAINTIFF'S COMPLAINT (Doc. #2);  
CERTIFYING PURSUANT TO 28 U.S.C. §1915(a) THAT AN APPEAL OF THIS  
DECISION AND ENTRY WOULD NOT BE TAKEN IN GOOD FAITH, AND  
THEREFORE, DENYING PLAINTIFF LEAVE TO APPEAL *IN FORMA PAUPERIS*;  
AND TERMINATING THE CASE ON THE DOCKET OF THIS COURT**

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The Court has conducted a de novo review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #3), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby **ADOPTS** said Report and Recommendations. It is therefore **ORDERED** that:

1. The Report and Recommendations filed on July 16, 2008 (Doc. #3) is **ADOPTED** in full;
2. Plaintiff's Complaint (Doc. #2) is **DISMISSED**;

3. The Court certifies pursuant to 28 U.S.C. §1915(a) that for the reasons set forth in the Report and Recommendations, an appeal of this Decision and Entry would not be taken in good faith, and consequently, leave for Plaintiff to appeal *in forma pauperis* is DENIED. Plaintiff – a nonprisoner – remains free to apply to proceed *in forma pauperis* in the United States Court of Appeals. *See Callihan v. Schneider*, 178 F.3d 800, 803 (6<sup>th</sup> Cir. 1999); and
4. This case is terminated on the docket of this Court.



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Walter Herbert Rice  
United States District Judge